

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRIAN T. LYNCH,

Plaintiff,

v.

CAPITAL ONE BANK (USA), N.A., et al.

Defendants.

CIVIL ACTION

No. 12-992

ORDER

AND NOW, this 14th day of June, 2013, upon consideration of the “Motion to Dismiss Plaintiff’s Second Amended Complaint by Defendants Capital One Bank (USA), N.A. and Capital One Services, LLC” (collectively “Capital One”) (Doc. No. 28), the response and reply thereto, and for the reasons stated in the accompanying Memorandum Opinion, it is hereby **ORDERED** that:

1. Capital One’s motion to dismiss is **GRANTED**. Counts I and III of Plaintiff’s second amended complaint are **DISMISSED** without prejudice. Plaintiff may file an amended complaint consistent with the accompanying Memorandum Opinion within **thirty (30) days** of the date of this Order. Count IV of Plaintiff’s second amended complaint is **DISMISSED** with prejudice.
2. Plaintiff has failed to serve “All Collection Attorneys for Capital One Bank (USA), N.A.” within 120 days of the filing of the second amended complaint, as required by Federal Rule of Civil Procedure 4(m). Within ten (10) days of the date of this Order, Plaintiff shall provide the Court with good cause as to why the time for service should be extended

or this Court will dismiss the claims against these unnamed Defendants for lack of prosecution.

BY THE COURT:

/s/ Mitchell S. Goldberg

Mitchell S. Goldberg, J.